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ARIZONA CORPORATION COMMISSION

JAMES G. JAYNE
Interim Executive Secretary
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AZ CORP COMMISSION
DOCUMENT CONTROL

July 18, 2003

Commissioner Jim Irvin
Commissioner William Mundell
Commissioner Jeff Hatch-Miller
Commissioner Mike Gleason
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Arizona Corporation Commission
DOCKETED
JUL 18 2003
DOCKETED BY CAC

Re: Slamming and Cramming Rules
Docket No. RT-00000J-99-0034

Dear Colleagues:

We all receive anecdotal accounts of slamming and cramming, and I fear only a tiny fraction of these offenses result in formal or informal consumer complaints. However, I enclose a constituent letter that makes an eloquent argument for immediate certification of this Commission's slamming and cramming rules.

You all recall the attorney for AT&T stating at our Open Meeting AT&T's "zero tolerance" policy regarding slamming. AT&T was not alone—all of the carriers vehemently denied slamming and cramming occur and then in apparent self-contradiction were even more vehement in opposition to our rules.

Mr. Haney articulates what the **Star Tribune** observed on July 15, 2003 ("*Poor ethics cost telecoms*"). First, in an "increasingly cutthroat" telecom market companies "operate as close to the line as they can" and that "settlements with regulators are a part of the cost of doing business". Mr. Haney's conclusion is that slamming and cramming offenses are creatures of this industry culture. Please note this episode occurred many months after AT&T's attorney professed "zero tolerance".

As a believer in free markets (but not anarchy) I am grateful technology has brought Arizona consumers inter and intra-modal competition. Cable telephony, internet voice telephony, local number portability for wireless and other innovations will give consumers choices unimaginable a few years ago. But freedom of choice and competition are illusory if the competitors refuse to honor their commitments to Arizona consumers, and slamming and cramming are the type of business practices most dishonorable to those commitments.

By copy of this letter I again request the that Attorney General of Arizona approve this Commission's slamming and cramming rules.

Very truly yours,

Marc Spitzer
Chairman

cc: The Honorable Terry Goddard
Docket Control
All parties on record

THOMAS E. HANEY, P.C.
ATTORNEY AT LAW

101 NORTH FIRST AVENUE, SUITE 2460
PHOENIX, ARIZONA 85003

(602) 254-5866
FAX (602) 254-5906

RECEIVED
JUN 27 2003

June 25, 2003

Hon. Marc Spitzer, Chairman
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Re: AT&T Slamming

Dear Mr. Spitzer:

This letter memorializes a recent incident involving AT&T "slamming" my telephone lines away from Qwest and outlines the subsequent scenario which resulted in my doing business with neither company into the future.

On February 4, 2003, I received notice from AT&T thanking me for enrolling in their local telephone service. Since I did not, I began an inquiry and learned that I had apparently given permission to one of AT&T's marketing personnel to change my local carrier. I eventually reached someone with whom I could discuss this matter because, as you know, AT&T's letters carry no address, but only 800 telephone numbers. This office turned out to be in Pennsylvania, and I called that number and inquired as to how I had changed my local service to AT&T.

The individual responding one, Fowayna (only first names, of course) at 800 741-1393 x4675, explained that a change had occurred on January 16, 2003 and that she would look up the tape and roll number and come back to me with that information. She indeed came back some days later and played the recording for me. The recording was the AT&T marketing person and another person, who claimed to be myself, indicating that my current carrier was Ameritec and giving the last four digits of a social security number, which was not mine. I protested this to Fowayna, who acknowledged that indeed I had not given permission to change from Qwest.

As a result, however, I lost my Qwest voicemail and AT&T began billing me for local service, something between one and two hundred dollars per month. I informed AT&T that I would not maintain their service, nor would I pay for service that had been obtained by fraud. I called Qwest to take me back. Qwest refused unless I paid a $173.00 dollar deposit or, in the alternative, agreed to stay a year. Since my lease at this address expires in three months, I refused either option. In the meantime, I located Winstar for much the same price that I had been paying Qwest and AT&T for both local and long distance. I switched to that company.

AT&T began calling for an overdue bill of $237.50, which I refused to pay. I called Fewoyna and indicated that it was only fair that AT&T should eliminate charges for the two months or so that I unwillingly utilized their services. They did so, canceling, charges except for $32.00 of actual long distance toll calls, since I did have AT&T all along for long distance.

That pretty much ended the matter. I have the following comments. While AT&T management did not condone the fraudulent conduct of its marketing personnel, it is my opinion that they encourage it or force it by demanding certain levels of performance, which the employee cannot meet without cheating. Therefore, this particular dreg, which they have probably fired, had some of his friends standing by to pretend to be customers, making the recording and change appear legitimate. The problem is the system employed by AT&T.

Secondly, AT&T hides and operates behind a series of 800 telephone numbers, widely dispersed across the country. You cannot write to them, or walk in and speak to them. You cannot get to anyone at the top, only designated representatives, usually with no authority excepting their narrow function, such as collection.

Thank you for your interest and attention to this matter. If I can be of any further help involving "slamming" regulations, I am available.

Sincerely yours,

Thomas E. Haney

Thomas. E. Haney

AT&T
AT&T Revenue Assurance Mgmt
PO BOX 16700
Mesa, AZ 85211

AT&T RECEIVED
MAY 14 2003
THOMAS E. HANEY, P.C.

002820 1 FP .320 W70 000162

THOMAS HANEY PC
101 N 1ST AVE STE 2460
PHOENIX, AZ 85003-1918

May 09, 2003

Account Number: 0303026438001 Total Due: $237.50

Dear Valued Customer:

We are very concerned about your account. Our records indicate that you have an unpaid AT&T bill in the amount of $237.50, of which $237.50 is currently past due.

Without payment in full, access to the AT&T Network may be interrupted, and a fee may be required to reestablish service for all services billed under this account number (including Toll-Free, WorldNet, Cellular, Intra-LATA, and Inter-LATA, if applicable).

If this outstanding balance is not paid, your account may also be subject to referral to an outside collection agency.

Contact us immediately to make payment arrangements on 1-800-521-9073 or access our secure website at www.att.com/customercare. Please have a recent bill available, as your bill date is required for on-line registration.

Please be advised that this may be our only contact regarding your past due AT&T account.

AT&T

AT&T

RETURN ON COMMUNICATIONS

RECEIVED

FEB 0 4 2003

THOMAS E. HANEY, P.C.

Company, Owner
Thomas E. Haney
101 N 1st Avenue
Phoenix, AZ 85003-1918

Dear Company, Owner,

Thank you for enrolling in AT&T's All-In-One (AIO) Local Service. To ensure a smooth transition to AT&T local service, we would like to confirm the purchase of your specific local services as well as provide you with some other important information.

1. Order Confirmation

Your order shows the following telephone number(s) and associated features to be ported to AT&T:

Lines	Features
(602) 254-5866	Call Blocking
(602) 254-5882	Call Blocking
(602) 254-5906	Call Blocking

In addition to the features you have chosen above, AT&T offers calling options that can help you grow and manage your business. Options like AT&T Voice Messaging and AT&T Three-Way Calling are valuable tools for increasing productivity in the daily operation of your business.

Please note that three programmable features *(Voice Messaging Service, Speed Dialing 8 and 30 and Call Forward Variable)* will need to be reprogrammed once your local service is switched to AT&T. The instructions for programming *Voice Messaging Service* are located on the enclosed insert. If needed, instructions for programming *Speed Dialing 8 and 30 and Call Forward Variable* can be found in your local phone book.

2. Additional Terms & Conditions for Non-Regulated Local Services

If you purchase or plan to purchase AT&T's Inside Wiring Maintenance Plans and Voice Messaging Services, these services are provided pursuant to the AT&T Communications Services Agreement. To see this Agreement as well as additional terms, conditions and a Plan description, please refer to the following Web site: http://www.att.com/serviceguide/business.

3. AIO Plan Benefits

You should also know that since you're now enjoying one low, flat AT&T rate for all your local calls, you'll also receive a competitive rate from AT&T long distance services as well. Choosing AT&T as your carrier for both local and long distance services will allow you to benefit from reliability that sets the industry standard. Moreover, AT&T provides the convenience of a single monthly statement for all of your communication services. AT&T can even arrange an online bill payment option to simplify your paperwork.

4. One Call For All AT&T Service

Still have questions? One simple number is all you need. Dial 1 877 325-0445, and our representatives will assist you in making the right decisions for your business.

In the meantime, thanks again for choosing AT&T.

Sincerely,

AT&T All-in-One Business Marketing

Poor ethics cost telecoms

Steve Alexander and Julie Forster
Star Tribune
Published 07/15/2003

Call it me-too business ethics.

If Minneapolis-based telephone firm New Access Communications rode roughshod over consumers in three states, eventually paying $222,000 in settlements with regulators, a top executive says the firm was no worse than other telecommunications companies that routinely bend the rules to make money in a rough-and-tumble long-distance market.

"Find me a long-distance company with 60,000 customers that has not had this happen," said Elam Baer, CEO of New Access' parent company, NewTel Holdings.

Nonetheless, New Access paid dearly for "slamming" consumers in Washington, Oregon and Indiana, or switching their long-distance service to New Access without permission. Baer said Monday that his firm has done its best to correct those mistakes, which it made during its rapid growth in 2000 and 2001.

Baer was responding to allegations that the company and Gov. Tim Pawlenty were engaged in shady business dealings that hurt consumers and angered regulators, resulting in the settlements.

The long-distance market has become increasingly cutthroat in recent years as more competitors have joined the fray, resulting in sharp decreases in consumers' costs but thinner profit margins for service providers.

"In a way, the settlements with regulators are part of the cost of doing business," said Craig Clausen, an analyst with New Paradigm Resources Group, a telecom consulting firm in Chicago.

"There are a lot of large, reputable companies paying fines for slamming. MCI, AT&T and Sprint have paid millions of dollars. The problem is determining if the companies are knowingly doing these things. Is it happening because they have aggressive telemarketers, or because the companies are instructing the telemarketers to do this?"

Cory Jackson, a telecom analyst at U.S. Bancorp Piper Jaffray, agreed.

"It's just the nature of companies in telecom and other regulated industries to operate as close to the line as they can, because the regulations tend to be limitations on their ability to do business," Jackson said.

Last October, Qwest Communications was fined $20.3 million by California regulators for slamming thousands of customers in 1999 and 2000. In May, Qwest agreed to pay a $6.5 million settlement to the Federal Communications Commission for selling long-distance service in Minnesota and other states without authorization.

In June 2000, MCI (a trade name of WorldCom) agreed to pay $3.5 million for slamming as part of an agreement with federal regulators.

And in May 2002, the Public Utility Commission of Texas ordered AT&T Communications of Texas to issue $250,000 in refunds for slamming and cramming (billing for services not ordered by customers) and to pay a $500,000 penalty for the violations.

Hearings on other alleged violations of telecom rules are pending at the Minnesota Public Utilities Commission (PUC). The PUC, which regulates Minnesota telecom companies, will decide whether Iowa-based McLeodUSA overcharged business customers who wanted to pay to terminate their contracts with the firm.

The PUC also will consider whether local phone service provider Minnesota Telephone Co. did business without the required state authorization.

"The sales get too aggressive," said Mark Cooper, director of research at the Consumer Federation of America, a nonprofit federation that includes more than 300 state and local groups. "They play a little game here, a little game there. They get caught and they adjust their behavior."

Richard Smith, president and chief operating officer of New Access competitor Eschelon Telecom Inc. of Minneapolis, said that in 75 percent of slamming cases, the customer will end up paying the bill -- and that's what some telecom companies that aggressively pursue new customers through slamming count on.

"Not enough customers complain about it," Smith said.

Company investigated

New Access was founded in 2000 by president Greg Wilmes, general counsel Steve Clay and Dave Buss, who left the firm earlier this year. NewTel, formed in 1999 in Europe, acquired part ownership in New Access as a way to enter the U.S. telecom market and now owns nearly 100 percent. In 2002, New Access bought ChoiceTel and Emergent Communications, both of Minneapolis, and Stonebridge Communications of Roseville.

In addition to New Access, NewTel Holdings offers local and long-distance telephone service in Spain, Ireland, Switzerland and Australia. Privately held, NewTel does not release financial information. But Baer said it became profitable at the end of 2002 and expects to report nearly $100 million in revenue this year.

About $30 million of its revenue will come from New Access, which has 60,000 customers in 15 states, including about 6,000 customers in Minnesota who buy a package that includes both local and long-distance services, Baer said.

New Access voluntarily stopped marketing in Minnesota this year when it found it was being investigated for slamming by the Minnesota attorney general's office. Baer said the company was surprised earlier this month when a pending settlement with the state fell through at the last minute for reasons he says weren't explained to him.

Baer said New Access paid the settlements in Indiana, Oregon and Washington because it lacked legal might to contest them and because it did not want to alienate state regulators with whom it would have to deal in the future.

Yet he disagrees that paying settlements is part of the cost of doing business. Profit margins for his company are too slim to pay for the settlement, he said.

"Those settlements were a lot of money to us, and they took the profit out of a lot of customers," Baer said. "We do everything we possibly can to prevent unauthorized switching of customers because it is very adverse to our business interest to do anything else."

Board activities

Baer also said there's no reason to blame Pawlenty, a former Newtel board member, for failing to prevent the slamming by New Access.

Pawlenty attended only four to five board meetings a year and wasn't told about the New Access problems because they weren't out of the ordinary, Baer said. In addition, Baer said the Newtel board was focused primarily on the parent company's European operations.

"The idea that boards can manage the day-to-day affairs of a company with five offices around the globe and 200-plus employees is preposterous," Baer said.

But Norman Bowie, the Elmer L. Andersen chair in corporate responsibility at the University of Minnesota's Carlson School of Management, said that as a director, Pawlenty was "legally responsible and I think morally responsible. If Nike is responsible for their supply chain, certainly in the case of a company that owns a wholly owned subsidiary, the directors are responsible for that company."

Staff writer John Reinan contributed to this report. The writers are at alex@startribune.com and jforster

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